



## Office of Campaign Finance

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**FINAL AUDIT REPORT ON  
KWAME FOR CHAIR  
PRINCIPAL CAMPAIGN COMMITTEE  
2010 GENERAL ELECTION**

**JULY 2013**

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**REPORTS ANALYSIS AND AUDIT DIVISION  
OFFICE OF CAMPAIGN FINANCE  
WASHINGTON, DC 20009**

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## **I. BACKGROUND**

### **A. OVERVIEW**

This report is based upon a field audit of the statements and Reports of Receipts and Expenditures filed by Kwame for Chair, Principal Campaign Committee ("the Committee"), undertaken by the Reports Analysis and Audit Division, Office of Campaign Finance (OCF), to determine if the Committee has complied with the provisions of D.C. Official Code Section 1-1163.09, as amended.

#### **1. Candidate**

Kwame Brown, a candidate in the 2010 General Election for the Office of Chairman of the Council, of the District of Columbia, registered with the OCF on April 14, 2010, in accordance with D.C. Official Code Section 1-1163.12.

The field audit of the candidate's statements covered the period April 6, 2010 through March 2011. The candidate, in his Statement of Candidacy, designated **Kwame for Chair** as his Principal Campaign Committee.

#### **2. Principal Campaign Committee**

The Kwame for Chair Committee registered with the OCF on April 14, 2010, in accordance with D.C. Official Code Section 1-1163.07(1).

The audit of the Kwame for Chair Committee covered the period, April 6, 2010 through March 18, 2011.

The Committee's Report of June 10, 2010, the first report filed, disclosed a beginning cash balance of \$0.00. During the period of the pre-audit (desk) review, the reports filed by the Committee reflected total aggregated receipts of \$734,926.93 and total aggregated expenditures of \$734,926.93 and an ending cash balance of \$0.00. Receipts and expenditures per **audit** were \$739,698.22 and \$739,698.22, respectively, with an ending cash balance of \$0.00.

The Preliminary Audit Report was issued on January 15, 2013.

The Committee filed a Termination Report on February 7, 2011, covering the period February 1, 2011 through February 7, 2011, reflecting an ending cash on hand balance of \$0.00. On June 14, 2013, the Committee filed an Amended Termination Report reflecting an ending cash on hand balance of \$0.00.

On February 14, 2013, the Committee responded through its legal counsel and requested an extension until February 28, 2013 to respond to the Preliminary

Audit Report. On February 15, 2013, the Director of the OCF approved the Committee's request for an extension.

On February 28, 2013, the Committee submitted its response to the Preliminary Audit Report. Additionally, on March 13, 2013, the Committee filed an Amended Consolidated Report as requested by the Audit Staff. However, after review of the Committee's response, the Audit staff noted that there were matters contained in the Preliminary Audit Report that remained outstanding

On March 29, 2013, the Audit staff referred to the OCF General Counsel the Kwame for Chair Committee for failure to adequately respond to the Preliminary Audit Report.

On May 1, 2013 the Committee treasurer and her legal counsel attended an informal hearing within the office to address the aforementioned outstanding issues. Their responses are noted in the findings below.

It should be noted that on June 12, 2013, the Committee filed a second Amended Consolidated Report.

#### **B. KEY PERSONNEL**

The principal officers of the Kwame for Chair Committee were Dawn E. Cromer, Treasurer, and Sigmund R. Adams, Chairperson, as cited in the Statement of Organization. Acceptance of the positions of Treasurer and Chairperson Forms were filed on April 14, 2010.

#### **C. SCOPE**

The audit procedures performed included a verification and/or examination of:

1. The mathematical accuracy of the Reports of Receipts and Expenditures filed with the Director, Office of Campaign Finance, during the period audited;
2. Total reported receipts and expenditures and individual transactions with source documents;
3. Conformity with the contribution limitation as mandated by D.C. Official Code Section 1-1163.33(a)(2);
4. Committee debts and obligations;
5. Proper categorization of the Committee's receipts and expenditures; and
6. The review procedures as deemed necessary under the circumstances.

## **II. FINDINGS AND RECOMMENDATIONS**

### **RECEIPTS**

#### **A. EXCESSIVE CONTRIBUTIONS**

D.C. Official Code Section 1-1163.33(a)(2) provides that, “No person shall make any contribution which, and no person shall receive any contribution from any person which, when aggregated with all other contributions received from that person, relating to a campaign for nomination as a candidate or election to public office, including both the primary and general election or special elections, exceeds: In the case of a contribution in support of a candidate for Chairman of the Council or for the recall of the Chairman of the Council, \$1,500.”

D.C. Official Code Section 1-1161.01(42) provides that, "When used in this chapter, unless otherwise provided: [t]he term ‘person’ means an individual, partnership, committee, corporation, labor organization, and any other organization.”

D.C. Official Code Section 1163.33(g) provides that, "All contributions made by any person directly or indirectly to or for the benefit of a particular candidate or that candidate's political committee, which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate or political committee, shall be treated as contributions from that person to that candidate or political committee and shall be subject to the limitations established by this section.”

3 DCMR Section 3009.13 provides that, “A corporation, its subsidiaries, and all political committees established, financed, maintained or controlled by the corporation and its subsidiaries share a single contribution.”

3 DCMR Section 3009.14 provides that, “A corporation is deemed to be a separate entity; provided that a corporation (corporation B) which is established, financed, maintained or controlled (51% or more) by another corporation (corporation A) is considered, for the purposes of the contribution limitations, a subsidiary of the other corporation (corporation A).”

D.C. Official Code Section 1-1163.34(a) provides that, “A contribution by a partnership shall be attributed to each partner: (1) In direct proportion to his or her share of the partnership profits, according to instructions that shall be provided by the partnership to the political committee or candidate; (2) By agreement of the partners, as long as: (A) Only the profits of the partners to whom the contribution is attributed are reduced (or losses increased); and (B) these partners’ profits are reduced (or losses increased) in proportion to the contribution

attributed to each of them.” Contributions by a partnership or by a partner may not exceed the limitations on contributions as prescribed by Section (a)(3) of the “Campaign Finance Act of 2011”.

Our audit revealed that the Committee may have accepted ten (10) excessive contributions totaling \$4,200.00. This was revealed through the review of the Committee bank statements, copies of the contributor checks, credit card contribution records, and Committee Reports of Receipts and Expenditures. Of the ten (10) aforementioned excessive contributions, five (5) refunds were reported by the Committee on its Reports of Receipts and Expenditures. However, bank records indicated that only three (3), totaling \$1,500.00, of the aforementioned reported refunds actually cleared the bank account of the Committee. There was no evidence that the remaining excessive portions, totaling \$2,700.00, were refunded. This was reflected pursuant to a review of Committee bank records.

In the Preliminary the Audit staff recommended that the Committee refund the excessive portion of each contribution and provide documentation of the completed transactions (front and back copies of the negotiated checks) to our office for review.

In its response to the Preliminary Audit Report, the Committee stated that it issued five (5) refunds (even though only three (3) were negotiated by the recipients). Further, the Committee stated that as for the remaining refunds due, unfortunately it does not have sufficient funds at this time to make those refunds totaling \$2,700.00. At the informal hearing on May 1, 2013, the Committee reiterated the aforementioned and stated that it would be willing to issue the remaining refunds; however, the Committee account is currently closed and there are no monies available.

Therefore, the Audit staff will refer the remaining excessive contributions to the OCF General Counsel for whatever action deemed appropriate.

## **B. OVER/UNDERSTATED CONTRIBUTIONS**

Our audit revealed that the Committee reported three (3) overstated contributions which resulted in a \$398.00 overstatement in total receipts.

In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended Consolidated Report correcting the aforementioned overstatement in total receipts in the amount of \$398.00.

On March 13, 2013 and June 12, 2013, the Committee filed Amended Consolidated Reports correcting the \$398.00 overstatement in total receipts as recommended by the Audit staff.

### **C. ITEM PROCESSING CORRECTION-RECEIPTS**

Through the review of Committee bank statements, the audit revealed that two (2) deposits made by the Committee were understated on the Committee deposit slips by \$3,600.00.

Further, the audit revealed that there was a \$1,290.19 unreconcilable difference in total reported receipts verses total receipts per Committee bank statements.

In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended Consolidated Report adjusting its total reported receipts by the aforementioned understatement in the amount of \$3,600.00 and the unreconcilable difference of \$1,290.19.

On March 13, 2013 and June 12, 2013, the Committee filed Amended Consolidated Reports correcting the \$3,600.00 understatement and unreconcilable difference of \$1,569.29 in total receipts as recommended by the Audit staff.

### **DISBURSEMENTS**

#### **D. EXPENDITURES NOT REPORTED**

D.C. Official Code Sections 1-1163.09(c)(8) and (9) provide, in part that, “Each report under this section shall disclose: [t]he full name and mailing address (including the occupation and principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value of \$10 or more, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made. The total sum of expenditures made by such committee or candidate during the calendar year...”

Our audit further revealed that the Committee failed to report a bank charge in the amount of \$10.75. This was revealed through the Audit staff’s review of Committee bank statements.

In addition, the audit revealed the Committee reported an expenditure that was understated by \$0.20.

Further, there was a \$1,507.61 unreconcilable difference in reported expenditures verses total expenditures per Committee bank statements.

In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended Consolidated Report inclusive of the aforementioned

bank charge previously unreported. Additionally, the Audit staff recommended that the Committee make the proper adjustments to its total expenditures to reflect the \$1,507.61 unreconcilable difference and the understated expenditure in the amount of \$0.20.

On May 13, 2013 and June 12, 2013, the Committee filed Amended Consolidated Reports inclusive of the aforementioned bank charge. Additionally, the Committee corrected the aforementioned understatement in total expenditures and made the appropriate adjustment for the \$1,507.61 unreconcilable difference as recommended by the Audit staff.

#### **E. EXPENDITURES REPORTED BUT NOT NEGOTIATED THROUGH THE BANK**

Our audit revealed that the Committee reported eleven (11) expenditures totaling \$3,965.10 that were not negotiated through the Committee's bank account. This was evidenced through the review of Committee bank statements.

In the Preliminary Audit Report, the Audit staff recommended that the Committee provide evidence that these expenditures were negotiated through the bank account of the Committee, or documentation that they were paid by some other means; and if not, provide an explanation as to the basis for the reporting of the payments as expenditures incurred by the campaign.

In its response on February 28, 2013, the Committee did not provide documentation that these expenditures were negotiated through the bank account of the Committee. Further, the Committee agreed that these expenditures were not negotiated through the bank account of the Committee.

However, on May 9, 2013, the Committee treasurer's legal counsel provided evidence that four (4) of the aforementioned expenditures were negotiated through the bank account of the Committee. The evidence included the Committee bank statements for January 2011, February 2011, and March 2011. These bank statements were not previously provided to the Audit staff by the Committee when requested by the Audit staff during the audit fieldwork process. Further, during the audit fieldwork process, the Committee stated that it could not provide copies of its bank statement for January 2011, February 2011, and March 2011. The Committee agreed with the Audit staff that the remaining seven (7) expenditures totaling \$2,897.27 were not negotiated through the bank account of the Committee, but could not provide the Audit staff with an explanation.

On June 12, 2013, the Committee filed an Amended Consolidated Report adjusting its total expenditures by \$2,897.27 to reflect the expenditures that were not negotiated through the bank account of the Committee.

Therefore, the Audit staff disallowed the expenditures and will refer the expenditures that were not negotiated through the bank account and were not explained to the OCF General Counsel for whatever action deemed appropriate.

#### **F. ITEM PROCESSING CORRECTION – EXPENDITURES**

Through the review of Committee bank statements, the audit revealed six (6) deposits made by the Committee that were overstated on the Committee deposit slips by \$6,150.00. As a result, the Committee's depository charged back the monies, \$6,150.00, as debits to the Committee's bank account. However, the Committee did not report these debits (charge backs) as expenditures on its Reports of Receipts and Expenditures.

In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended Consolidated Report inclusive of the receipts that were charged back as expenditures in the amount of \$6,150.00.

On May 13, 2013 and June 12, 2013, the Committee filed Amended Consolidated Reports inclusive of receipts totaling \$6,150.00 that were charged back as expenditures as indicated on the Committee bank statements.

#### **G. CASH DISBURSEMENTS**

D.C. Official Code Section 1-1163.08(a) and (b) provides that, "Each committee and each candidate accepting contributions or making expenditures, shall designate in the registration statement required under § 1-1163.07 or § 1-1163.12, one or more national banks located in the District of Columbia as the depository or depositories of that committee or candidate. Each committee or candidate shall maintain a checking account or accounts at such depository or depositories and shall deposit any contributions received by the committee or candidate into that account or accounts. No expenditures may be made by a committee or candidate except by check drawn payable to the person to whom the expenditure is being made on that account or accounts, other than petty cash expenditures as provided in subsection (b) of this section. A committee or candidate may maintain a petty cash fund out of which may be made expenditures not in excess of \$50 to any person in connection with a single purchase or transaction. A record of petty cash receipts and disbursements shall be kept in accordance with requirements established by the Elections Board, and statements and reports of expenditures shall be furnished to the Director of Campaign Finance as it may require."

3 DCMR Section 3010.1 provides that, "A candidate, political committee or Statehood Fund may maintain a Petty Cash Fund which shall not exceed three hundred dollars (\$300) at any time."



3 DCMR Section 3010.3 (b) provides that, “Cash expenditures shall not exceed fifty dollars (\$50) to any person in connection with a single purchase or transaction.”

Our review of Committee bank statements and cancelled checks revealed that the Committee issued seven (7) checks totaling \$19,270.00 that were made payable to “cash”. Of the seven (7) aforementioned cash expenditures, four (4) were accompanied by the proper documentation to substantiate the disbursement. The remaining three (3) cash expenditures in the amount of \$9,560.00 were not accompanied by the proper documentation. The payee to whom the expenditures were made signed an “Acknowledgement of Cash Receipt Letter” for each of the expenditures, but did not state the type of campaign services provided.

In its response to the Preliminary Audit report dated February 28, 2013, the Committee stated that since the monies were used to purchase certified checks to pay specific vendors, the Committee did not fully comprehend that this would be a violation of campaign finance laws.

Therefore, the Audit staff will refer the matter to the OCF General Counsel for whatever action deemed appropriate.

## **OTHER MATTERS NOTED**

### **H. PAYMENTS FOR CONSULTING SERVICES**

3 DCMR Section 3400.2 provides that, “Each required filer, pursuant to Section 3400.1 shall obtain and preserve, from the date of registration, detailed records of all contributions and expenditures disclosed in reports and statements filed with the Director, including the following: (a) Check stubs; (b) Bank statements; (c) Canceled checks; (d) Contributor cards and copies of donor checks; (e) Deposit slips; (f) Invoices; (g) Receipts; (h) Contracts; (i) payroll records; (j) Tax records; (k) Lease agreements; (l) Petty cash journals; (m) Ledgers; (n) Vouchers; and (o) Loan documents.”

Our audit revealed fifty-three (53) expenditures totaling \$192,289.00 for the period June 2010 through October 2010, and fifteen (15) expenditures totaling \$23,005.00 for the period April 2010 through October 2010 to two (2) vendors for “consulting services”. The Committee did not provide the Audit staff with copies of contracts indicating the services rendered, the length of the contract, or the payments agreed upon between the parties. The Committee did provide invoices for each expenditure; however, the invoices did not provide a breakdown for each service that was provided.

In the Preliminary Audit Report, the Audit staff recommended that the Committee provide copies of all contracts and/or statements of work of the

services provided between the two (2) aforementioned vendors and Kwame for Chair.

In its response to the Preliminary Audit Report, the Committee stated that it did not possess any additional documentation on behalf of the Committee that had not already been submitted. Further, at the informal hearing held on May 1, 2013, the Committee treasurer stated that she was not given any contracts by Committee officials and that she was not responsible for the hiring of vendors.

At the informal hearing on May 1, 2013, the Audit Manager informed the Committee treasurer that as the treasurer of record of the Kwame for Chair Committee, she was responsible for all activity conducted during the campaign.

Therefore, the Audit staff will refer the matter to the OCF General Counsel for whatever action deemed appropriate.

#### **I. EXPENDITURES MADE BY NON-COMMITTEE OFFICIAL**

D.C. Official Code Section 1-1163.07(1) provides that, "Each committee shall file with the Director of Campaign Finance a statement of organization within 10 days after its organization. The statement of organization shall include: (A) The name and address of the committee; (B) The name, address, and position of the custodian of books and accounts; (C) The name, address, and position of other principal officers, including officers and members of the finance committee, if any; (D) The name and address of the bank or banks designated by the committee as the committee's depository or depositories, together with the subchapter and number of each account and safety deposit box used by that committee at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of each account or box; and (E) Other information as shall be required by the Director of Campaign Finance."

D.C. Official Code Section 1-1163.07(4) provides that, "Every committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of the committee at a time when there is a vacancy in the office of treasurer for the committee and no other person has been designated and has agreed to perform the functions of the treasurer. No expenditure shall be made for or on behalf of a committee without the authorization of its chairman or treasurer, or their designated agents."

Our audit of Committee bank records revealed that the Committee issued twenty-eight (28) checks totaling \$92,260.00 that were signed by an individual other than the committee officials or authorized signatories as indicated on the Statement of Organization of Kwame for Chair filed with OCF on April 14, 2010.

Additionally, our review of the Committee's Statement of Organization revealed that the aforementioned individual was not named as an authorized signer to make expenditures, withdrawals, or payments on behalf of the Committee.

Further, seven (7) of the aforementioned twenty-eight (28) checks were made payable to cash.

In its response to the Preliminary Audit Report dated February 28, 2013, the Committee stated that it would appreciate the opportunity to amend its Statement of Organization to reflect an additional individual as an authorized signer on the bank account of the Committee. Additionally, at the informal hearing held on May 1, 2013, the Committee treasurer acknowledged that the Statement of Organization should have been amended for signatories.

At the informal hearing held on May 1, 2013, the Audit Manager recommended that the Committee file an Amended Statement of Organization reflecting the additional signatories.

On May 14, 2013, the Committee filed an Amended Statement of Organization to include Che Brown as an authorized signatory on the Committee's bank account.

However, the Amended Statement of Organization is not retro-active. Therefore, the Audit staff will refer the matter to the OCF General Counsel for whatever action deemed appropriate.

## **J. RECORDKEEPING AND DISCLOSURE**

3 DCMR Section 3400.2 provides that, "Each required filer, pursuant to Section 3400.1, shall obtain and preserve, from the date of registration, detailed records of all contributions and expenditures disclosed in reports and statements filed with the Director, including the following: (a) Check stubs; (b) Bank statements; (c) Canceled checks; (d) Contributor cards and copies of donor checks; (e) Deposit slips; (f) Invoices; (g) Receipts; (h) Contracts; (i) Payroll records; (j) Tax records; (k) Lease agreements; (l) Petty cash journals; (m) Ledgers; and (n) Vouchers."

Our audit revealed that the Committee reported two hundred and sixty (260) **contributions** totaling \$134,282.00 in which proper documentation (contributor checks, credit card information, and/or solicitation materials) was not provided to substantiate each contribution.

In the Preliminary Audit Report, the Audit staff recommended that the Committee provide the proper documentation to substantiate each of the

aforementioned **contributions** in which the proper documentation was not previously provided.

In its response to the Preliminary Audit Report dated February 28, 2013, the Committee stated that it does not have any additional documentation. Further, at the informal hearing held on May 1, 2013, the Committee stated that it is not in possession of any further documentation.

It should be noted that, at the informal hearing held on May 1, 2013, the Committee treasurer stated that she accepts responsibility as the treasurer of the Kwame for Chair Committee and that she has done everything that she possibly can.

Therefore, the Audit staff will refer the matter to the OCF General Counsel for whatever action deemed appropriate.

### **OVERALL RECOMMENDATION**

The Audit staff submits that based on the aforementioned recommendations, responses by the Committee dated February 28, 2013, and the statements made by the Committee at the informal hearing on May 1, 2013, that it cannot accurately state that the Committee is in compliance with the “ Campaign Finance Act of 2011”.

Therefore, the Audit staff cannot make an opinion regarding the activity of the Kwame for Chair Committee. Hence, the Audit staff will refer all outstanding matters to the OCF General Counsel for whatever actions deemed appropriate.

**July 5, 2013**  
Date

**Renee Coleman**  
Renee Coleman  
Audit Manager

### **FINAL AUDIT APPROVED FOR RELEASE:**

**July 5, 2013**  
Date

**Cecily E. Collier-Montgomery**  
Cecily E. Collier-Montgomery  
Director  
Office of Campaign Finance